IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WA.No. 857 of 2007()

AGAINST THE JUDGEMENT/ORDER IN WPC.26385/2006
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APPELLANTS:RESPONDENTS 1 AND 2
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1. SREE MAHADEVA EDUCATIONAL TRUST,
MATTANNUR, REP BY THE ADMINISTRATOR,
SREE MAHADEVA EDUCATIONAL TRUST,
MATTANNUR P.O,
KANNUR DT.

2. SREE SANKARA VIDYA PEEDAM, MATTANNUR,
KANNUR DT. REP. BY ITS MANAGER.

BY ADV. SRI.T.G.RAJENDRAN
SRI.CIBI THOMAS

RESPONDENTS:PETITIONER/RESPONDENTS 1 AND 4
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1. LATHA T.K., W/O.MURALEEDHARAN K.
KIZHAKKE MADAM, KALLUR,
MATTANNUR, KANNUR DT.

2. THE REGIONAL DIRECTOR, CENTRAL BOARD OF
SECONDARY EDUCATION, SOUTHERN REGION,
CHENNAI.

3. THE CHAIRMAN,
CENTRAL BOARD OF SECONDARY EDUCATION,
NO.2 COMMUNITY CENTRE,
PREETHI VIHAR, NEW DELHI.

BY ADV.SRI.K.RAMAKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC, JJ.
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W.A NO. 857 OF 2007
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Dated this the 30th day of March, 2007

J U D G M E N T

P.R.Raman, J.

This is an appeal against an interim order passed by the learned Single Judge in WP(C) No.2638/2006 dated 19th of March 2007. The writ petition was filed by first respondent challenging restricted relief granted by Ext.P4. By that order, though the petitioner was ordered to be reinstated, back wages was refused. But the reinstatement ordered as per Ext.P4 was however not implemented. Hence he sought appropriate direction seeking to implement the order of reinstatement. The management on the other hand filed WP(C) No.630/2006 challenging Ext.P4 order. But no interim stay was granted. The learned Single Judge after hearing the matter thought fit that, pending further consideration of the matter, provisionally ordered that Ext.P4 should be implemented and directed the appellant herein to reinstate the 1st respondent into service. Aggrieved thereby, this appeal is preferred.

2. The learned counsel appearing on behalf of the appellant submitted that since one of the prayers in the writ petition is for implementation of Ext.P4 order, the same could not have been granted by way of interim relief. But the learned counsel appearing for the respondents would submit that this is only one of the several reliefs prayed for in the writ petition filed by him. Further, the Court has not passed any interim order in favour of the management in the writ petition filed by them. It is after taking into consideration of the hardship that will be caused, in case there is further delay in passing orders that pending further consideration, the present order is passed.

3. We have heard both sides.

4. In the facts and circumstances of the case, though this is an interim order, we think the order requires modification taking note of the fact that while the management has filed WP(C) 630/06 challenging Ext.P4, the first respondent has also challenged Ext.P4 as against the relief declined by Ext.P4. The matter is still pending further consideration before the learned Single Judge. In the factual situation, therefore, instead of directing reinstatement of the first respondent, option should

have been granted to the management either to pay the salary or to reinstate the first respondent as the case may be, so that the interest of both sides could be protected.

5. Accordingly, we direct that the management will have the option either to reinstate the first respondent as directed or in the alternative to pay the salary every month. The interim order was passed on 19th of March 2007 and since one weeks time was granted to implement the order, we extend the period by one week from today, failing which, the management shall pay the salary on the 30th of every month, first of which will commence on 30th of April, 2007. It is open to the parties to seek for an early hearing of the writ petition now pending before the learned Single Judge.

Writ appeal is disposed of as above.

P.R.RAMAN, JUDGE.

ANTONY DOMINIC, JUDGE.

Rp